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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.331 OF 2007
IN
WRIT PETITION NO.1911 OF 2004

Vinodkumar Baldevsingh Saigal....Petitioner

Versus

Mumbai Building Repairs &
Reconstruction Board & Anr......Respondents

Mr. D.D. Madon with Mr. Milan Bhise, Anil Bharve with Murti i/b. Milan Bhise & Co., for Petitioner

Mr. G.W.Mattos, AGP for Respondent No.1. Mr.E.P. Bharucha i/b. Thakore Jariwala & Associates for Respondents.

CORAM: F.I. REBELLO &
SMT.V.K.TAHILRAMANI,JJ.
DATED: 31ST JULY,2007

P.C.:

. The petition was disposed of with consent of the parties on October 14, 2004. Thereafter the matter was taken out being Notice of Motion No.255 of 2006 which was disposed of by order dated August, 4, 2006. In terms of para.4 the time to carry out repairs was extended by further period of one more year, which period expired on 14th August, 2007.

2. The present Motion is by the original Petitioner seeking various reliefs.

. The original Respondent No.2, present

respondent No.2 has also taken out a motion being Notice of Motion No.259 of 2007 wherein the reliefs prayed are for modification of the order dated 4th October, 2004 and for a further direction to direct the petitioner to carry out the work of propping of the first floor premises of the building and some other reliefs.

3. Having heard parties and as admittedly inspite of time being extended repairs have not been carried out in our opinion the further proceedings will have to be in terms of what is already set out in the order dated October 14, 2004 more specifically Clause (x) which reads as under:-

> In the event of Respondent No.2 failing to carry out the repair work for any reason whatsoever, Respondent No.1 shall forthwith carry out the said repairs or remaining work immediately without any further orders."

It has been contended on behalf of the Respondent No.2 that they could not carry out the work on account of non-cooperation by the petitioner. Petitioners deny the same. At any rate considering the language of Clause (x) in our opinion it would be appropriate that Clause (x) of the order dated 14th October, 2004 is given effect to as it was by

consent. Considering the above Motion disposed of by issuing the following directions:-

(i) Respondent No.1-MBR&RB to carry out the repairs of remaining work in terms of their Act, Rules and Regulations.

(ii) It is needless to say that the Respondent No.1 while carrying out the repairs will comply with the Act, Rules and Regulations.

(iii) In the light of the above order both the Motions i.e. by the Petitioners herein being Notice of Motion No.331 of 2007 and Notice of Motion No.259 of 2007 by the Respondent No.2 are disposed of.

(SMT. V.K. TAHILRAMANI, J.) (F.I.REBELLO, J.)